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February 16, 2020

The Honorable Hildy Bowbeer  
United States Magistrate Judge  
United States District Court  
District of Minnesota  
632 Federal Building  
316 North Roberts Street  
St. Paul, MN 55101

Re: *Winn-Dixie Stores, Inc. v. Agri Stats, Inc. et al.*, Civil Action 19-cv-01578

Dear Judge Bowbeer:

We represent Winn-Dixie Stores, Inc. and Bi-Lo Holdings, LLC (“Winn-Dixie”) and submit this letter regarding the process for filing briefs in opposition to Defendants’ pending motions to dismiss, following up on our letter of February 13, 2020, and Class Plaintiffs’ Response dated February 14, 2020.

Class Plaintiffs’ Response incorrectly states that ‘Class Plaintiffs . . . were contacted by the Direct Action Plaintiffs (including Winn-Dixie) for the first time last week about the requests currently highlighted in Winn-Dixie’s letter.’ As stated in Winn-Dixie’s letter (Dkt. 470), Winn-Dixie reached out to Class Plaintiffs on multiple occasions. The first occasion was an approximately 30-minute phone call on January 9, with counsel for the Commercial and Institutional Indirect Purchaser Plaintiffs, in an attempt to engage in a discussion with the Classes with the purpose of formulating a plan for coordination on response briefs. Then, after the motions to dismiss were filed, Winn-Dixie again reached out on January 31 to that same class counsel. Then, on February 4, 2020, 17 days before the deadline to file the response to Defendants’ MTDs, Winn-Dixie sent an email to counsel for the DPP Class, again seeking to coordinate the briefing. Ignoring their prior statement to the Court about coordinating with the DAPs, counsel for the DPP Class stated rather curtly that all of the Classes would not coordinate with the DAPs: “We have conferred with the other classes and we do not intend to file a joint brief with the direct action plaintiffs.” Finally, on February 5, 2020, 16 days before the response briefs are due, Winn-Dixie asked the Classes to reconsider, asked them again to coordinate, and, in the alternative, proposed a 3-day extension for Winn-Dixie to file its response in order to avoid duplicative briefing.

It is precisely because Class Plaintiffs have abjectly refused to coordinate on response briefing, despite Winn-Dixie's longstanding attempts to have productive coordination to avoid duplicative briefing and in contravention to their statement to the Court that they would do so, that Winn-Dixie is seeking relief.

We are available to answer any questions the Court may have about these issues.

Respectfully submitted,

A handwritten signature in black ink that reads "Patrick J. Ahern". The signature is written in a cursive, flowing style.

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